

1 HOUSE BILL NO. 398

2 INTRODUCED BY J. BALYEAT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE TAX CREDIT FOR
5 CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; PROVIDING THAT FOR THE PURPOSES OF THE
6 QUALIFIED ENDOWMENT CREDIT, A STUDENT SCHOLARSHIP PROGRAM OR OTHER STUDENT
7 FINANCIAL ASSISTANCE PROGRAM OF A PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY SCHOOL
8 OR HIGH SCHOOL IS A QUALIFIED ENDOWMENT; PROVIDING THAT ANY CONTRIBUTION TO A
9 STUDENT SCHOLARSHIP PROGRAM OR OTHER STUDENT FINANCIAL ASSISTANCE PROGRAM OF A
10 PUBLIC OR PRIVATE, NONPROFIT ELEMENTARY SCHOOL OR HIGH SCHOOL IS A PLANNED GIFT;
11 ELIMINATING THE TEMPORARY INCREASES OF THE TAX CREDITS FOR CONTRIBUTIONS TO A
12 QUALIFIED ENDOWMENT ENACTED BY CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; MAINTAINING
13 THE TEMPORARY DECREASES OF THE TAX CREDITS FOR CONTRIBUTIONS TO A QUALIFIED
14 ENDOWMENT ENACTED BY CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; AMENDING SECTION
15 15-30-165, MCA, AND SECTION 10, CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; REPEALING
16 SECTIONS 2, 4, 6, 8, AND 11, CHAPTER 24, SPECIAL LAWS OF AUGUST 2002; AND PROVIDING AN
17 EFFECTIVE DATE AND AN APPLICABILITY DATE."

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19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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21 **Section 1.** Section 15-30-165, MCA, is amended to read:22 **"15-30-165. (Temporary) Qualified endowments credit -- definitions -- rules.** For the purposes of
23 15-30-166, the following definitions apply:24 (1) Subject to ~~subsection~~ subsections (3) and (4), "planned gift" means an irrevocable contribution to
25 a permanent endowment held by a tax-exempt organization, or for a tax-exempt organization, when the
26 contribution uses any of the following techniques that are authorized under the Internal Revenue Code:

27 (a) charitable remainder unitrusts, as defined by 26 U.S.C. 664;

28 (b) charitable remainder annuity trusts, as defined by 26 U.S.C. 664;

29 (c) pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);

30 (d) charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);

- 1 (e) charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);
- 2 (f) charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- 3 (g) deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
- 4 (h) charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B);
- 5 (i) paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.
- 6 (2) (a) "Qualified endowment" means a permanent, irrevocable fund that is held by a Montana
- 7 incorporated or established organization that:
- 8 (i) is a tax-exempt organization under 26 U.S.C. 501(c)(3); or
- 9 (ii) is a bank or trust company, as defined in Title 32, chapter 1, part 1, that is holding the fund on behalf
- 10 of a tax-exempt organization.
- 11 (b) For the purposes of ~~sections~~ 15-30-165 through 15-30-167, the affordable housing revolving loan
- 12 account established in 90-6-133 is considered to be a qualified endowment.
- 13 (c) For the purposes of 15-30-165 through 15-30-167, a student scholarship program or other student
- 14 financial assistance program of a public or private, nonprofit elementary school or high school in Montana is
- 15 considered to be a qualified endowment.
- 16 (3) (a) A contribution using a technique described in subsection (1)(a) or (1)(b) is not a planned gift
- 17 unless the trust agreement provides that the trust may not terminate and the beneficiaries' interest in the trust
- 18 may not be assigned or contributed to the qualified endowment sooner than the earlier of:
- 19 (i) the date of death of the beneficiaries; or
- 20 (ii) 5 years from the date of the contribution.
- 21 (b) A contribution using the technique described in subsection (1)(g) is not a planned gift unless the
- 22 payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life
- 23 expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables adopted
- 24 by rule by the department in effect on the date of the contribution.
- 25 (c) A contribution using a technique described in subsection (1)(f) or (1)(g) is not a planned gift unless
- 26 the annuity agreement provides that the interest of the annuitant or annuitants in the gift annuity may not be
- 27 assigned to the qualified endowment sooner than the earlier of:
- 28 (i) the date of death of the annuitant or annuitants; or
- 29 (ii) 5 years after the date of the contribution.
- 30 (4) For the purposes of 15-30-165 through 15-30-167, any form of contribution to a student scholarship

1 program or other student financial assistance program described in subsection (2)(c) is considered a planned
2 gift.

3 ~~(4)~~(5) The department shall adopt rules to prepare life expectancy tables that are derived from the
4 actuarial tables contained in the most recent Publication 1457 by the internal revenue service. (Subsection (2)(b)
5 terminates December 31, 2004--sec. 7, Ch. 411, L. 2001; section terminates December 31, 2007--sec. 5, Ch.
6 226, L. 2001.)"

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8 **Section 2.** Section 10, Chapter 24, Special Laws of August 2002, is amended to read:

9 **"Section 10. Applicability.** ~~(1)~~ [Sections 1, 3, 5, and 7] apply to charitable gifts made on or after [the
10 effective date of this act].

11 ~~(2) [Sections 2, 4, 6, and 8] apply to charitable gifts made on or after July 1, 2003."~~

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13 NEW SECTION. **Section 3. Repealer.** Sections 2, 4, 6, 8, and 11, Chapter 24, Special Laws of August
14 2002, are repealed.

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16 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2003.

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18 NEW SECTION. **Section 5. Applicability.** [This act] applies to charitable gifts made on or after July
19 1, 2003.

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